Air Pollution Control
Title V Permit to Operate
Statement of Basis for Permit No. V-SU-0016-05.02
Minor Modification/Administrative Amendment
July 2008

Red Cedar Gathering Company
Capote Compressor Station
Southern Ute Indian Reservation
La Plata County, Colorado

1. Description of Permit Changes

On September 4, 2007, the U.S. Environmental Protection Agency (EPA) received a letter from Red Cedar Gathering Company (Red Cedar) requesting a minor modification at the Capote Compressor Station. Two of the six permitted engines (C-1605 and C-1606) have been sold and removed from the Capote Compressor Station. In addition, Red Cedar re-evaluated emissions from permitted engines and insignificant emission units, resulting in an increase in emissions, necessitating a minor permit modification.

Red Cedar re-evaluated emissions from the six permitted engines based on the most recent manufacturer data at maximum sea level brake horse power (bhp) rating (i.e. no derate for elevation) and the bhp rating increased from 1,324 bhp to 1,478 bhp for each engine. Basing the emission estimates on maximum sea level bhp rating is a conservative approach yielding the highest possible potential to emit (PTE). Red Cedar also re-evaluated emissions from dehydration units and determined that these units no longer qualify as insignificant emission units (IEUs). As a result, dehydration units D-1601, D-1602 and D-1603 are now considered significant emission units (EUs). The subsequent change in PTE resulting from the increased engine bhp and additional EUs does not change the regulatory status with regard to any Federal Clean Air Act (CAA) standards. Tables 1, 2, and 3 of this document show the PTE in (tpy) used as the basis for the previous permit, this modified permit, and the difference in PTE resulting from the modification.

Due to new rules promulgated at 40 CFR parts 60 and 63, EPA has added clarification text to permit Sections II.C. Alternative Operating Scenario and III.Q. Off Permit Changes. The updated text clarifies when the alternative operating scenario could be utilized as well as updating the notification requirements when an off permit change is made.

EPA noted that the previous permit did not contain the requirement to use GRI-GLYCalc to determine glycol dehydration unit natural gas flowrate for benzene emissions in order to meet the criteria for an exemption from control requirements under §63.764(e)(1). Therefore, this requirement was added.

Table 1- PTE Prior to Proposed Minor Modification

Emission Unit ID	Regulated Air Pollutants (tpy)						
	NO_X	VOC	SO_2	PM_{10}	CO	Lead	HAP
C-1601	19.20	12.80	-	-	33.90	-	4.30
C-1602	19.20	12.80	-	-	33.90	-	4.30
C-1603	19.20	12.80	-	-	33.90	-	4.30
C-1604	19.20	12.80	-	-	33.90	-	4.30
C-1605	19.20	12.80	-	-	33.90	-	4.30
C-1606	19.20	12.80	-	-	33.90	-	4.30
IEUs	0.52	0.50	-	-	0.45	-	-
TOTAL	115.72	77.30	-	-	203.85	-	25.80

Table 2- PTE After Proposed Minor Modification

Emission Unit ID	Regulated Air Pollutants (tpy)						
	NO_X	VOC	SO_2	PM_{10}	CO	Lead	HAP
C-1601	21.40	14.27	.03	.47	37.82	_	5.47
C-1602	21.40	14.27	.03	.47	37.82	_	5.47
C-1603	21.40	14.27	.03	.47	37.82	_	5.47
C-1604	21.40	14.27	.03	.47	37.82	_	5.47
D-1601	0.14	5.89	.0008	.01	.12	_	1.96
D-1602	0.14	5.91	.0008	.01	.12	_	1.97
D-1603	0.23	1.34	.0014	.02	.19	_	.30
IEUs	0.20	0.40	-	-	0.1	_	-
TOTAL	86.31	70.62	.12	1.92	151.81	-	26.11

Table 3- Difference in PTE of the Minor Modification (Difference between Table 1 & 2)

Total Emissions per Permit	Regulated Air Pollutants (tpy)						
	NO_X	VOC	SO_2	PM_{10}	CO	Lead	HAP
Permit #V-SU-0016-05.01	115.72	77.30	-	-	203.85	-	25.80
Permit #V-SU-0016-05.02	86.31	70.62	.12	1.92	151.81	-	26.11
Difference between	-29.41	-6.68	+.12	+1.92	-52.04	-	+.31

In addition to the modification requested above, EPA received an administrative amendment request to change the plant mailing address on February 14, 2008.

On November 8, 2007, EPA sent a letter to inform Red Cedar of a new mailing address, effective December 17, 2007, for the submittal of annual fee payments required pursuant to 40 CFR Part 71 and the title V permits issued by EPA's Air Program. The operating permit for Capote Compressor Station has been amended to correct the fee payment address. The new addresses are as follows:

For <u>regular U.S. Postal Service mail</u>

U.S. Environmental Protection Agency
FOIA and Miscellaneous Payments
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000

For <u>non-U.S. Postal Service Express mail</u>
(FedEx, Airborne, DHL, and UPS)
U.S. Bank
Government Lockbox 979078
U.S. EPA FOIA & Misc. Payments
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Additionally, in an effort to streamline the title V permits and reduce the number of administrative permit amendments requested, EPA has removed specific non-enforceable facility information, such as the names and phone numbers of the Responsible Official, Facility Contact, and Tribal Contact. Part 71 does not require this information to be in the permit and changes to such information are the most often requested administrative permit amendments. This information will be maintained in the Statements of Basis for each permit action.

EPA requests from this point forward that Red Cedar continue to notify EPA in writing of changes to such facility information; however, the changes will no longer require administrative permit amendments. The notifications will be kept on file, similar to off permit change notifications, and the most current information will be updated in the Statement of Basis as part of the next permit modification or renewal

EPA also reviewed the records of off permit change notifications for the facility and has updated Table 1- Emission Units in the permit with the most current information for emission units that have been replaced or overhauled. EPA added clarification to the table regarding rebuilt engines.

The following modifications have been made to this permit:

- Permit number and issue/effective/expiration dates removed from signature cover page.
- Permit issuance cover page created to follow signature cover page (includes information removed from signature cover page).
- **Section I.A. Source Information**
  1. Names and phone numbers for the Responsible Official, Alternate Responsible Official, Company Contact and Tribal Contact were removed. Parent Company Mailing Address was removed.
  2. Updated "Description of Process" to include re-calculated PTE per Red Cedar's Minor Modification application.

- **Section I.B. Source Emission Points**
  1. Table 1- Emission Units was updated per Red Cedar's Minor Modification application and off permit change notifications.
  2. Table 2- Insignificant Emission Units was updated per Red Cedar's Minor Modification application.
- **Section II.A. Recordkeeping Requirements**
  1. Pursuant to 40 CFR 63.774(d)(1) a GRI-GLYCalc recordkeeping requirement was added for dehydration units D-1601, D-1602 and D-1603.
- **Section II.C. Alternative Operating Scenarios**
  1. Revised text for clarification.
- **Section III.Q. Off Permit Changes**
  1. Revised text for clarification.
- **Section IV.A. Annual Fee Payment**
  1. Bank name and address for submittal of annual fee payments was changed.
- **Section V. Appendix**
  1. Permit revision history was changed and has been removed from the Appendix and moved to the permit issuance cover page at the front of the permit.

EPA has made these revisions pursuant to 40 CFR 71.7(e)(1) and in accordance with the Minor Permit Modification requirements in Section III.I. of this permit. The permit will be reissued as permit V-SU-0016-05.02.

2. Facility Information

a. Location

The Capote Compressor Station is located within the exterior boundary of the Southern Ute Indian Reservation in southwestern Colorado, in La Plata County. The exact location is NW/4 Section 34, Township 33N, Range 9W, La Plata County, Colorado. The mailing address is:

Red Cedar Gathering Company
125 Mercado Street, Suite 201
Durango, CO 81301

b. Contacts

Facility Contact:
Ethan Hinkley, Environmental Compliance Specialist- Air Quality
Red Cedar Gathering Company
125 Mercado Street, Suite 201
Durango, CO 81301
Main Office: (970) 764-6900
Direct Line: (970) 764-6910

Responsible Official:
Albert J. Brown, President-COO
125 Mercado Street, Suite 201
Durango, CO 81301
Main Office: (970) 764-6900
Fax: (970) 382-0462

Tribal Contact:
James Temte, Air Program Manager
Southern Ute Indian Tribe
(970)563-4705

c. Description of operations

The Capote Compressor Station removes water from the natural gas (dehydration), and then compresses the gas for delivery to the pipeline. Units C-1601, C-1602, C-1603, and C-1604, compress the gas stream from 300 psig to 1,000 psig. The facility does not extract natural gas liquids (NGL's) from field gas, or fractionate mixed NGL to natural gas products.

Air pollutant emissions are primarily from four internal combustion engines which drive the compressors and three natural gas fired glycol dehydrators (D-1601, D-1602 and D-1603). All engines are Waukesha model L7042GL lean burn engines, fired only with natural gas, rated at 1,478 bhp at sea level each, and exhaust individually to the atmosphere. Unit C-1604 was installed in 2004, unit C-1601 was installed in 2007 and units C-1602 and C-1603 were installed in 2008.

There are also two small heaters, a CO_2 separation plant (out of service, but on site) and several tanks, which are listed in the part 71 operating permit minor modification application as insignificant emitting units. All emitting units are listed in Section I.B of the permit.

d. List of all units and emission-generating activities

In the part 71 operating permit minor modification application, as well as follow up documentation and off permit change notifications for the Capote Compressor Station, Red Cedar provided the information shown in Tables 4 and 5 below. Table 4 lists emission units and emission generating activities, including any air pollution control devices. Emission units identified as "insignificant" emitting units (IEU's) are listed separately in Table 5. Applicability determinations for the engines listed in Table 4 can be found in Section 3.a. of this Statement of Basis.

Table 4 - Emission Units
Red Cedar Gathering Company, Capote Compressor Station

Emission Unit Id.	Description	Control Equipment
	Waukesha L 7042 GL Lean Burn Compressor Engines, 1,478 bhp, natural gas fired:	None
C-1601	serial no. C-11786/1 Installed 4/24/2007	
C-1602	serial no. C-12583/1 Installed 6/9/2008	
C-1603	serial no. C-12583/3 Installed 1/16/2008	
C-1604	serial no. C-13013/2 Installed 5/7/2004	
	Triethylene Glycol Dehydrator, manufactured by JW Williams, model no. 3068	None
D-1601	serial no. 4468 Installed 12/1/1995	
D-1602	serial no. 4376 Installed 12/1/1995	
	Triethylene Glycol Dehydrator, manufactured by Olman Heath	None
D-1603	serial no. 22772 Installed 11/2002	

Part 71 allows sources to separately list in the permit application units or activities that qualify as "insignificant" based on potential emissions below 2 tons/year for all regulated pollutants that are not listed as hazardous air pollutants ("HAP") under Section112 (b) and below 1000 lbs/year or the de minimus level established under Section 112(g), whichever is lower, for HAPs. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the emissions fee. Units that qualify as "insignificant" for the purposes of the part 71 application are in no way exempt from applicable requirements or any requirements of the part 71 permit.

Red Cedar stated in their part 71 permit minor modification application that the emission units in Table 5 below are IEU's. The application provided emission calculations, including TANKS 4.0 modeling reports for the tanks. This supporting data justifies the source's claim that these units qualify as IEU's.

Table 5- Insignificant Emission Units
Red Cedar Gathering Company, Capote Compressor Station

Emission Unit ID	Description
IE-101	325 MBtu/hr Tank Heater
IE-102	6 MBtu/hr Catalytic Heater
V-4906	CO_2 Membrane Plant (fugitives)
TK-7001	1,620 gal Lube Oil tank
TK-7002	1,000 gal Coolant Tank
TK-7003	1,000 gal Triethylene glycol tank
TK-7004	600 gal Glycol Vent Tank
TK-7005	250 gal Glycol Drain Tank
TK-8502	500 bbl High Pressure Liquids Holding Tank, Water with trace Hydrocarbons
TK-8602	2,000 gal Low Pressure Drain Liquids Holding Tank, Used Oil

e. Potential to emit

Under 40 CFR § 52.21, PTE is defined as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation, or the effect it would have on emissions, is federally enforceable.

The PTE for the Capote Compressor Station was reported by Red Cedar in Forms "PTE" and "EMISS" of the part 71 minor modification application. The PTE for this facility are as follows:

Nitrogen oxides (NOx) – 86.31 tpy
Carbon monoxide (CO) – 151.81 tpy
Volatile organic compounds (VOC) – 70.62 tpy
Small particulates (PM_{10}) – 1.92 tpy
Lead - 0 tpy
Sulfur dioxide (SO_2) - .12 tpy
Total hazardous air pollutants (HAP's) – 26.11 tpy
Largest single HAP (formaldehyde, CH_2O) – 16.56 tpy

Table 6 of this document shows the PTE of each significant emission unit and the IEUs (total).

Table 6 - Potential to Emit
Red Cedar Gathering Company, Capote Compressor Station

Emission Unit ID	Regulated Air Pollutants (tpy)						
	NO_X	VOC	SO_2	PM_{10}	CO	Lead	HAP
C-1601	21.40	14.27	.03	.47	37.82	-	5.47
C-1602	21.40	14.27	.03	.47	37.82	-	5.47
C-1603	21.40	14.27	.03	.47	37.82	-	5.47
C-1604	21.40	14.27	.03	.47	37.82	-	5.47
D-1601	0.14	5.89	.0008	.01	.12	-	1.96
D-1602	0.14	5.91	.0008	.01	.12	-	1.97
D-1603	0.23	1.34	.0014	.02	.19	-	.30
IEUs	0.20	0.40	-	-	0.1	-	-
TOTAL	86.31	70.62	.12	1.92	151.81	-	26.11

3. Analysis of Federal Regulations

a. Applicable requirement review

The following analysis of applicable requirements is only for the changes made in this minor modification application. For a complete Statement of Basis for all applicable and non-applicable requirements, please see permit #V-SU-0016-05.00. All applicable requirements addressed here are included in the Code of Federal Regulations (CFR), Title 40.

New Source Performance Standards (NSPS)

40 CFR Part 60, Subpart JJJJ: Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. This subpart establishes emission standards and compliance requirements for the control of emissions from stationary spark ignition (SI) internal combustion engines (ICE) that commenced construction, modification or reconstruction after June 12, 2006, where the SI ICE are manufactured on or after specified manufacture trigger dates. The manufacture trigger dates are based on the engine type, fuel used, and maximum engine horsepower.

For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator (See 40 CFR 60.4230(a)).

Table 7- Subpart JJJJ Applicability Determination

Unit ID	Serial #	Engine Category	HP Rating	Fuel Type	Construction Date	Reconstruction and/or modification date	Installation date at this facility
C-1601	C-11786/1	4S/Lean Burn	1,478	NG	Pre-6/12/06	None	4/24/07
C-1602	C-12583/1	4S/Lean Burn	1,478	NG	Pre-6/12/06	None	6/9/08
C-1603	C-12583/3	4S/Lean Burn	1,478	NG	Pre-6/12/06	None	1/16/08
C-1604	C-13013/2	4S/Lean Burn	1,478	NG	Pre-6/12/06	None	5/7/04

All four of the Waukesha L7042GL stationary spark ignition internal combustion engines currently operating at the Capote Compressor Station (compressor engines C-1601 through C-1604) commenced construction prior to June 12, 2006, and have not been reconstruction or modification since. Therefore, this subpart does not apply to the current operating scenario at the Capote Compressor Station.

National Emissions Standards for Hazardous Air Pollutants (NESHAP)

40 CFR Part 63, Subpart A (General Provisions): This subpart contains national emission standards for hazardous air pollutants (HAP's), regulating specific categories of sources that emit one or more HAP's listed under the CAA. Subpart A applies only to sources that are subject to specific subparts of part 63.

The Capote Compressor Station is a major source of hazardous air pollutants (HAPs). In addition, the Capote Compressor Station has glycol dehydrators, which are units regulated under 40 CFR part 63, subpart HH and reciprocating internal combustion engines which are regulated under 40 CFR part 63, subpart ZZZZ.

However, as explained below, the glycol dehydrators at Capote are not considered affected units under subpart HH, because they do not emit in aggregate major amounts of hazardous air pollutants. The engines, as explained below, are not considered affected units under subpart ZZZZ because they are existing lean burn engines. Therefore, the source is only subject to the recordkeeping requirements for applicability determinations as outlined in the general provisions of 40 CFR part 63 [See § 63.10(b)(3)].

40 CFR Part 63, Subpart HH: National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities. This subpart applies to the owners and operators of affected units located at natural gas production facilities that are major sources of HAPs, and that process, upgrade, or store natural gas prior to the point of custody transfer, or that process, upgrade, or store natural gas prior to the point at which natural gas enters the natural gas transmission and storage source category or is delivered to a final end user. The affected units are glycol dehydration units, storage vessels with the potential for flash emissions, and the group of ancillary equipment, and compressors intended to operate in volatile hazardous air pollutant service, which are located at natural gas processing plants.

Throughput Exemption

Those sources whose maximum natural gas throughput, as appropriately calculated in §63.760(a)(1)(i) through (a)(1)(iii), is less than 18,400 standard cubic meters per day are exempt from the requirements of this subpart.

Source Aggregation

Major source, as used in this subpart, has the same meaning as in 40 CFR § 63.2, except that:

1) Emissions from any oil and gas production well with its associated equipment and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units.

2) Emissions from processes, operations, or equipment that are not part of the same facility shall not be aggregated.

3) For facilities that are production field facilities, only HAP emissions from glycol dehydration units and storage tanks with flash emission potential shall be aggregated for a major source determination.

Facility

For the purpose of a major source determination, facility means oil and natural gas production and processing equipment that is located within the boundaries of an individual surface site as defined in subpart HH. Examples of facilities in the oil and natural gas production category include, but are not limited to: well sites, satellite tank batteries, central tank batteries, a compressor station that transports natural gas to a natural gas processing plant, and natural gas processing plants.

Production Field Facility

Production field facilities are those located prior to the point of custody transfer. The definition of custody transfer (40 CFR § 63.761) means the point of transfer after the processing/treating in the producing operation, except for the case of a natural gas processing plant, in which case the point of custody transfer is the inlet to the plant. A natural gas processing plant is defined in 40 CFR 63.761 as engaging in the extraction of NGL's from field gas.

Natural Gas Processing Plant

A natural gas processing plant is defined in 40 CFR 63.761 as any processing site engaged in the extraction of NGL's from field gas, or the fractionation of mixed NGL's to natural gas products, or a combination of both. A treating plant or compression facility that does not engage in these activities is considered to be production field facilities.

Major Source Determination for Production Field Facilities

The definition of major source in this subpart (at 40 CFR § 63.761) states, in part, that only emissions from the dehydration units at production field facilities are not to be aggregated with any other equipment when comparing to the major source thresholds. (There are no tanks with potential for flashing at the Capote Compressor Station). Also, HAP emissions from equipment other than dehydration units or tanks with flashing potential are not to be aggregated for determining applicability of this subpart.

Area Source Applicability

40 CFR part 63, subpart HH applies to area sources of HAPs. An area source is a HAP source whose total HAP emissions are less than 10 tpy of any single HAP or 25 tpy for all HAPs in aggregate. This subpart requires different emission reduction requirements for triethylene glycol dehydration units found at oil and gas production facilities based on their geographical location. Units located in densely populated areas (determined by the Bureau of Census) and known as urbanized areas with an added 2-mile offset and urban clusters of 10,000 people or more, are required to have emission controls. Units located outside these areas will be required to have the glycol circulation pump rate optimized or operators can document that PTE of benzene is less than 1 tpy.

Applicability of subpart HH to the Capote Compressor Facility

The Capote Compressor Facility does not engage in the extraction of NGL's and therefore is not considered a natural gas processing plant. The point of custody transfer, as defined in this subpart HH, occurs downstream of the station and the facility would therefore be considered a production field facility. For production field facilities, only emissions from the dehydration units and storage vessels with a potential for flash emissions are to be aggregated to determine major source status. The facility does not have flash tanks and the HAP emissions from the dehydration units alone at the Capote Compressor Station are below the major source thresholds of 10 tpy of a single HAP and 25 tpy of aggregated HAP's.

With respect to the area source requirements of this subpart, the facility is located outside both an urban area and an urban cluster. Furthermore, uncontrolled benzene emissions from each of the dehydration units at the facility were determined to be less than 1 tpy using GRI-GLYCalc Version 4.0, as presented in the supporting documentation in the application. **As a result, each dehydration unit at the facility is exempt from the §67.764(d) general requirements for area sources. However, the following general recordkeeping requirement does apply to this facility:**

- §63.774(d)(1) – retain the GRI-GLYCalc determinations used to demonstrate that actual average benzene emissions are below 1 tpy.

40 CFR Part 63, Subpart ZZZZ: National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. This rule establishes national emission limitations and operating limitations for HAPs emitted from stationary reciprocating internal combustion engines (RICE).

This rule applies to owners or operators of new and reconstructed stationary RICE of any horsepower rating which are located at a major or area source of HAP. While all stationary RICE located at major or area sources are subject to the final rule (promulgated January 18, 2008, amending the final rule promulgated June 15, 2004), there are distinct requirements for regulated stationary RICE depending on their design, use, horsepower rating, fuel, and major or area HAP emission status.

Major Source Applicability

The standard now applies to engines with a horsepower rating of less than or equal to 500 bhp in addition to those engines with a horsepower rating greater than 500 bhp. The standard continues to have specific requirements for new or reconstructed RICE and for existing spark ignition 4 stroke rich burn (4SRB) stationary RICE located at a major HAP facility.

With the exception of the existing spark ignition 4SRB stationary RICE, other types of existing stationary RICE (i.e., spark ignition 2 stroke lean burn (2SLB), spark ignition 4 stroke lean burn (4SLB), compression ignition (CI), stationary RICE that combust landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, emergency, and limited use units) located at a major source of HAP emissions are not subject to any specific requirement under the final rule.

Existing RICE: A stationary RICE with a site rating of greater than 500 bhp is existing at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced before December 19, 2002. A stationary RICE with a site rating of less than or equal to 500 bhp is existing at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced before June 12, 2006.

New RICE: A stationary RICE with a site rating of greater than 500 bhp is new at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after December 19, 2002. A stationary RICE with a site rating of less than or equal to 500 bhp is new at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after June 12, 2006.

Area Source Applicability

Per the definitions in 40 CFR 63.6590, a stationary RICE is existing at an area source of HAP emissions if construction or reconstruction of the unit commenced before June 12, 2006. A stationary RICE is new at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after June 12, 2006. The Capote Compressor Station is a major source for HAPs and thus, RICE MACT area source does not apply.

Table 8- Subpart ZZZZ Applicability Determination

Unit ID	Serial #	Engine Category	HP Rating	Fuel Type	Construction Date	Installation date at this facility
C-1601	C-11786/1	4S/Lean Burn	1,478	NG	Pre-12/19/02	4/24/07
C-1602	C-12583/1	4S/Lean Burn	1,478	NG	Pre-12/19/02	6/9/08
C-1603	C-12583/3	4S/Lean Burn	1,478	NG	Pre-12/19/02	1/16/08
C-1604	C-13013/2	4S/Lean Burn	1,478	NG	Pre-12/19/02	5/7/04

The Capote Compressor is a major source of HAP emissions, as defined in subpart ZZZZ. However, the subpart does not apply, because all four Waukesha L7042GL compressor engines are considered existing 4SLB stationary RICE with a site rating of greater than 500 bhp for the following reasons: (1) the engines were constructed and installed at the facility prior to December 19, 2002, or (2) the engines were operated at another facility prior to December 19, 2002, were disassembled and removed from the previous facility, were installed at the Capote Compressor Station after December 19, 2002, and do not meet the definition of reconstruction in 40 CFR 63.2.

b. Conclusion

Based on the information provided in Red Cedar's minor modification application for the Capote Compressor Station, the source is subject to those applicable requirements discussed in Section 4.a. of this Statement of Basis. The Capote Compressor Station is not subject to any implementation plan such as exists within state jurisdictions.

EPA recognizes that, in some cases, sources of air pollution located in Indian country are subject to fewer requirements than similar sources located on land under the jurisdiction of a state or local air pollution control agency. To address this regulatory gap, EPA is in the process of developing national regulatory programs for preconstruction review of major sources in nonattainment areas and of minor sources in both attainment and nonattainment areas. These programs will establish, where appropriate, control requirements for sources that would be incorporated into part 71 permits. To establish additional applicable, federally-enforceable emission limits, EPA Regional Offices will, as necessary and appropriate, promulgate Federal Implementation Plans (FIPs) that will establish federal requirements for sources in specific areas. EPA will establish priorities for its direct federal implementation activities by addressing as its highest priority the most serious threats to public health and the environment in Indian country that are not otherwise being adequately addressed.

Further, EPA encourages and will work closely with all tribes wishing to develop TIPs for approval under the Tribal Authority Rule. EPA intends that its federal regulations created through a FIP will apply only in those situations in which a tribe does not have an approved TIP.

4. EPA Authority

a. General authority to issue part 71 permits

Title V of the CAA requires that EPA promulgate, administer, and enforce a federal operating permits program when a state does not submit an approvable program within the time frame set by

title V or does not adequately administer and enforce its EPA-approved program. On July 1, 1996 (61 FR 34202), EPA adopted regulations codified at 40 CFR 71 setting forth the procedures and terms under which the Agency would administer a Federal operating permits program. These regulations were updated on February 19, 1999 (64 FR 8247) to incorporate EPA's approach for issuing federal operating permits to covered stationary sources in Indian country.

As described in 40 CFR § 71.4(a), EPA will implement a part 71 program in areas where a state, local, or tribal agency has not developed an approved part 70 program. Unlike states, Indian tribes are not required to develop operating permits programs, though EPA encourages tribes to do so. See, e.g., Indian Tribes: Air Quality Planning and Management (63 FR 7253, February 12, 1998) (also known as the "Tribal Authority Rule"). Therefore, within Indian country, EPA believes it is generally appropriate that EPA administer and enforce a part 71 federal operating permits program for stationary sources until tribes receive approval to administer their own operating permits programs.

5. Use of all Credible Evidence

Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered by the source and EPA in such determinations.

Air Pollution Control
Title V Permit to Operate
Statement of Basis for Final Permit No. V-SU-0016-05.00
Renewal #1

Red Cedar Gathering Company
Capote Compressor Station
Southern Ute Reservation
La Plata County, Colorado

1. Facility Information

a. Location

The Capote Compressor Station, owned and operated by Red Cedar Gathering Company ("Red Cedar"), is located within the exterior boundary of the Southern Ute Indian Reservation, in the southwestern part of the State of Colorado. The exact location is NW 1/4, Section 34, T 33 N - R 9 W, in La Plata County, Colorado. The mailing address is:

Red Cedar Gathering Company
26266 Highway 160
Durango, CO 81301

b. Company Contacts

Facility contact:

Derrill W. Beaubien, EH&S Manager
Red Cedar Gathering Company
26266 Highway 160
Durango, CO 81301
970-382-7397

Responsible official:

Albert J. Brown, President-Chief Operating Officer
Red Cedar Gathering Company
26266 Highway 160
Durango, CO 81301
970-247-5754

c. Process Description

The Capote Compressor Station removes water from the natural gas(dehydration), then compresses the gas for delivery to the pipeline. Units 1601, 1602, 1603, and 1604, compress the gas stream from 300 psig to 1000 psig. Units 1605 and 1606 compress the recycled gas stream from 20 psig to 1000 psig. The facility does not extract natural gas liquids (NGL's) from field gas, nor fractionate mixed NGL to natural gas products.

Air pollutant emissions are primarily from six internal combustion engines which drive the compressors. All engines are Waukesha model L7042GL lean burn engines, fired only on natural gas, site rated at 1324 brake horsepower (bhp) each, and exhaust individually to the atmosphere. Units C-1601 and C-1602 were installed in May, 1995. The remaining 4 units were installed in December, 1995.

There are also two natural gas fired glycol dehydrators, 3 small heaters, a CO_2 separation plant and several tanks, which are listed in the part 71 operating permit application as insignificant emitting units. All emitting units are listed in section I.B of this permit.

d. Permitting history

The Capote Compressor Station commenced operation during May, 1995. EPA has no record of any pre-construction permitting activity at this facility.

e. List of all units and emission-generating activities

In the part 71 operating permit application for the Capote Compressor Station, Red Cedar provided the information shown in Tables 1 and 2 below. Table 1 lists emission units and emission generating activities, including any air pollution control devices. Emission units identified as "insignificant" emitting units (IEU's) are listed separately in Table 2.

Table 1 - Emission Units
Red Cedar Gathering Company, Capote Compressor Station

Emission Unit Id.	Description	Control Equipment
	Six Waukesha L 7042 GL Compressor Engines, 1324 bhp, natural gas fired:	Lean Burn Technology
C-1601	serial no. C-11521/1 Installed 5/1/1995	
C-1602	serial no. C-11542/1 Installed 5/1/1995	
C-1603	serial no. 402736CO Installed 12/1/1995	
C-1604	serial no. C-11541/1 Installed 12/1/1995	
C-1605	serial no. C-11788/1 Installed 12/1/1995	
C-1606	serial no. C-13015/1 Installed 12/1/1995	

Part 71 allows sources to separately list in the permit application units or activities that qualify as "insignificant" based on potential emissions below 2 tons/year for all regulated pollutants that are not listed as hazardous air pollutants ("HAP") under Section112(b) and below 1000 lbs/year or the de minimus level established under Section 112(g), whichever is lower, for HAPs. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the emissions fee. Units that qualify as "insignificant" for the purposes of the part 71 application are in no way exempt from applicable requirements or any requirements of the part 71 permit.

Red Cedar stated in the part 71 permit renewal application that the emission units in Table 2 below are IEU's. The application provided emission calculations, including GLY-CALC analysis for the dehydrators and TANKS 4.0 modeling reports for the tanks. This supporting data justifies the source's claim that these units qualify as IEU's.

Table 2 -- Insignificant Emission Units
Red Cedar Gathering Company, Capote Compressor Station

Emission Unit ID	Description
IE-101	325 MBtu/hr Tank Heater
IE-102	6 MBtu/hr Catalytic Heater
D-1601 D-1602 D-1603	300MBtu/hr Glycol dehydrator reboiler 300MBtu/hr Glycol dehydrator reboiler 500MBtu/hr Glycol dehydrator reboiler
V-4906	CO_2 Membrane Plant (fugitives)
TK-7001	1,620 gal Lube Oil tank
TK-7002	1,000 gal Coolant Tank
TK-7003	1,000 gal Triethylene glycol tank
TK-7004	600 gal Glycol Vent Tank
TK-7005	250 gal Glycol Drain Tank
TK-8502	500 bbl High Pressure Liquids Holding Tank, Water with trace Hydrocarbons
TK-8602	2,000 gal Low Pressure Drain Liquids Holding Tank, Used Oil
IE-101	325 MBtu/hr Tank Heater
IE-102	6 MBtu/hr Catalytic Heater

f. Potential to emit

Under 40 CFR § 52.21, PTE is defined as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation, or the effect it would have on emissions, is federally enforceable.

The PTE for the Capote Compressor Station, in tons per year, was listed by Red Cedar in Forms "PTE" and "GIS" of the part 71 operating permit application. The potential emissions for this facility are as follows:

nitrogen oxides (NO_x) - 116 tpy
volatile organic compounds (VOC) - 77 tpy
lead - 0 tpy
total hazardous air pollutants (HAP's) – 26 tpy
largest single HAP (formaldehyde, HCHO) – 22 tpy
carbon monoxide (CO) – 204 tpy
small particulates (PM_{10}) – 0 tpy
sulfur dioxide (SO_2) – 0 tpy

Table 3 - Potential to Emit in Tons Per Year,
Red Cedar Gathering Company, Capote Compressor Station

Emission Unit ID	Regulated Air Pollutants							
	NO_x	**VOC**	**SO_2**	**PM_{10}**	**CO**	**Lead**	**HAP**	**HCHO**
C-1601	19.2	12.8	-	-	33.9	-	4.3	3.7
C-1602	19.2	12.8	-	-	33.9	-	4.3	3.7
C-1603	19.2	12.8	-	-	33.9	-	4.3	3.7
C-1604	19.2	12.8	-	-	33.9	-	4.3	3.7
C-1605	19.2	12.8	-	-	33.9	-	4.3	3.7
C-1606	19.2	12.8	-	-	33.9	-	4.3	3.7
IEU's	0.52	0.5	-	-	0.45	-	0.0	-
TOTAL	116	77	-	-	204	-	26	22

2. Tribe Information -- The Southern Ute Tribe

a. Indian country:

Red Cedar's Capote Compressor Station is located within the exterior boundaries of the Southern Ute Indian Reservation and is thus within Indian country as defined at 18 U.S.C. §1151. The Southern Ute Tribe does not have a federally-approved Clean Air Act (CAA) title V operating permits program nor does EPA's approval of the State of Colorado's title V program extend to Indian country. Thus, EPA is the appropriate governmental entity to issue the title V permit to the Capote Compressor Station.

b. The reservation:

The Southern Ute Indian Reservation is located in Southwestern Colorado adjacent to the New Mexico boundary. Ignacio is the headquarters of the Southern Ute Tribe, and Durango is the closest major city, just 5 miles outside of the north boundary of the Reservation. Current information indicates that the population of the Tribe is about 1,305 people with approximately 410 tribal members living off the Reservation. In addition to Tribal members, there are over 30,000 non-Indians living within the exterior boundaries of the Southern Ute Reservation.

c. Tribal government:

The Southern Ute Indian Tribe is governed by the Constitution of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado adopted on November 4, 1936 and subsequently amended and approved on October 1, 1975. The Southern Ute Indian Tribe is a federally recognized Tribe pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat.984), as amended by the Act of June 15, 1935 (49 Stat. 378). The governing body of the Southern Ute Indian Tribe is a seven member Tribal Council, with its members elected from the general membership of the Tribe through a yearly election process. Terms of the Tribal Council are three years and are staggered so in any given year 2 members are up for reelection. The Tribal Council officers consist of a Chairman, Vice-Chairman and Treasurer.

d. Local air quality and attainment status:

The Tribe maintains an air monitoring network consisting of two sites equipped to collect Oxides of Nitrogen (NO_2), Ozone (O_3), Carbon Monoxide (CO) and metrological data. The Tribe has collected NO_2 and O_3 data at the Ignacio site and Bondad site since June 1, 1982, and April 1, 1997, respectively. Since January 1, 2000, both sites initiated metrological monitors measuring Wind Speed, Wind Direction, Vertical Wind Speed, Outdoor Temperature, Relative Humidity, Solar Radiation, and Rain/Snow Melt Precipitation. Particulate data (PM_{10}) was collected from December 1, 1981 to September 30, 2006, at the Ignacio site and since April 1, 1997 to September 30, 2006, at the Bondad site. The monitors indicate the following averages for the pollutant monitored: An annual average for NO_2, an hourly average for O_3 and CO, an 8-hour average for CO.

3. Applicable Requirement Review

The following federally applicable requirements have been determined not applicable to the Capote Compressor Station:

Chemical Accident Prevention Program: Based on the permit application, the Capote Compressor Station currently has no regulated substances above the threshold quantities in this rule and therefore is

not subject to the requirement to develop and submit a risk management plan. Red Cedar has an ongoing responsibility to submit this plan IF a substance is listed that Red Cedar has in quantities over the threshold amount or IF Red Cedar ever increases the amount of any regulated substance above the threshold quantity.

New Source Performance Standards (NSPS)

40 CFR Part 60, Subpart A (General Provisions): This subpart applies to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication of any standard in part 60. Subpart A applies only to sources that are subject to specific subparts of part 60. As explained below, the Capote Compressor Station is not subject to any specific subparts of part 60.

40 CFR Part 60, Subpart K: Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978. This subpart does not apply to storage vessels for petroleum liquids with a storage capacity less than 40,000 gallons, nor to storage vessels for petroleum or condensate stored, processed, and/or treated at a drilling and production facility prior to custody transfer. The subpart does not apply to the storage vessels at the Capote Compressor Station because: (a) they were constructed after May 19, 1978, (b) they are smaller than 40,000 gallons, and (c) the Capote Compressor Station is upstream of custody transfer of the natural gas.

40 CFR Part 60, Subpart Ka: Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to June 23, 1984. This subpart applies to storage vessels for petroleum liquids with a storage capacity greater than 40,000 gallons. The subpart does not apply to petroleum storage vessels with a capacity of less than 420,000 gallons used for petroleum or condensate stored, processed, or treated prior to custody transfer, therefore it does not apply to the Capote Compressor Station. In addition, this subpart dos not apply because all the tanks at the Capote Station were constructed after June 23, 1984.

40 CFR Part 60, Subpart Kb: Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced After July 23, 1984. This subpart applies to storage vessels with a capacity greater than or equal to 40 cubic meters. The subpart does not apply to the storage vessels at the Capote Compressor Station because the only tank that has a capacity greater than 40 cubic meters (TK-8502, capacity =79 m^3) does not store volatile organic liquids. TK-8502 stores produced water that is removed from the natural gas stream that goes through the facility. This tank also stores trace amounts of condensate removed from the process gas stream as an incidental and unavoidable consequence of the process by which the water is removed. This subpart, however, does not apply to condensate vessels with capacities less than or equal to 1,589.874 m^3.

40 CFR Part 60, Subpart KKK: Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. This subpart applies to compressors and other equipment at onshore natural gas processing facilities. As defined in this subpart, a natural gas processing plant is any processing site engaged in the extraction of natural gas liquids (NGL's) from field gas, fractionation of mixed NGL's to natural gas products, or both. NGL's are defined as the hydrocarbons, such as ethane, propane, butane, and pentane that are extracted from field gas. The Capote Compressor Station does not extract NGL's from field gas, nor does it fractionate mixed NGL's to natural gas products. Therefore, this subpart does not apply to the Capote Compressor Station because it is not a natural gas processing plant as defined in this subpart.

40 CFR Part 60, Subpart LLL: Standards of Performance for Onshore Natural Gas Processing; SO_2 Emissions. This subpart applies to sweetening units and sulfur recovery units at onshore natural gas processing facilities. As defined in this subpart, sweetening units are process devices that separate hydrogen sulfide (H_2S) and carbon dioxide (CO_2) from a natural gas stream. Sulfur recovery units are defined as process devices that recover sulfur from the acid gas (consisting of H_2S and CO_2) removed by a sweetening unit. The Capote Compressor Station does not perform sweetening or sulfur recovery. Therefore, this subpart does not apply to the Capote Compressor Station.

c. **National Emissions Standards for Hazardous Air Pollutants (NESHAP)**

40 CFR Part 63, Subpart A (General Provisions): This subpart contains national emission standards for hazardous air pollutants (HAP's), regulating specific categories of sources that emit one or more HAP's listed under the Clean Air Act. Subpart A applies only to sources that are subject to specific subparts of part 63. As explained below, the Capote Compressor Station is not subject to any specific subparts of part 63.

The Capote Compressor Station is a major source of hazardous air pollutants (HAPs). In addition, the Capote Compressor Station has glycol dehydrators, which are units regulated under 40 CFR part 63, subpart HH and reciprocating internal combustion engines which are regulated under 40 CFR part 63, subpart ZZZZ. However, the glycol dehydrators at Capote are not considered affected units under subpart HH, because they do not emit in aggregate major amounts of hazardous air pollutants, and the engines are not considered affected units under subpart ZZZZ because they are existing lean burn engines. Therefore, the source is only subject to the recordkeeping requirements for applicability determinations as outlined in the general provisions of 40 CFR part 63 [See § 63.10(b)(3)].

40 CFR Part 63, Subpart HH: National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities. This subpart applies to the owners and operators of affected units located at natural gas production facilities that are major sources of HAP's, and that process, upgrade, or store natural gas prior to the point of custody transfer, or that process, upgrade, or store natural gas prior to the point at which natural gas enters the natural gas transmission and storage source category or is delivered to a final end user. The affected units are glycol dehydration units, storage vessels with the potential for flash emissions, and the group of ancillary equipment, and compressors intended to operate in volatile hazardous air pollutant service, which are located at natural gas processing plants.

Major source, as used in this subpart, has the same meaning as in 40 CFR § 63.2, except that:

1.) Emissions from any oil and gas production well with its associated equipment and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units.

2.) Emissions from processes, operations, or equipment that are not part of the same facility shall not be aggregated.

3.) For facilities that are production field facilities, only HAP emissions from glycol dehydration units and storage tanks with flash emission potential shall be aggregated for a major source determination.

For the purpose of a major source determination, facility means oil and natural gas production and processing equipment that is located within the boundaries of an individual surface site as defined in subpart HH. Examples of facilities in the oil and natural gas production category include, but are not limited to: well sites, satellite tank batteries, central tank batteries, a compressor station that transports natural gas to a natural gas processing plant, and natural gas processing plants.

Those sources whose maximum natural gas throughput, as appropriately calculated in 40 CFR §63.760(a)(1)(i) through (a)(1)(iii), is less than 18,400 standard cubic meters per day are exempt from the requirements of this subpart.

The definition of major source in this subpart (at 40 CFR § 63.761) states, in part, that emissions from the dehydration units at production field facilities are not to be aggregated with any other equipment when comparing to the major source thresholds. (There are no tanks with potential for flashing at the facility.) Also, HAP emissions from equipment other than dehydration units or tanks with flashing potential are not to be aggregated for determining applicability of this subpart. HAP emissions from the dehydration units alone at the Capote Compressor Station are well below the major source thresholds of 10 tons per year of a single HAP and 25 tons per year of aggregated HAP's.

Production field facilities are those located prior to the point of custody transfer. The definition of custody transfer (40 CFR § 63.761) means the point of transfer after the processing/treating in the producing operation, except for the case of a natural gas processing plant, in which case the point of custody transfer is the inlet to the plant. A natural gas processing plant is defined in 40 CFR 63.761 as engaging in the extraction of NGL's from field gas. The Capote Compressor Station does not engage in the extraction of NGL's and therefore is not considered a natural gas processing plant. Hence, the point of custody transfer, as defined in this subpart HH, occurs downstream of the Capote Compressor Station because the facility's removal of water from the gas stream may be interpreted as constituting "treatment,"and the facility would therefore be considered a production field facility.

In conclusion, the Capote Compressor Station is not subject to this subpart because it is a production field facility and the HAP emissions from the dehydration units are below major source threshold for HAP's.

40 CFR Part 63, Subpart HHH: National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities. This subpart applies to natural gas transmission and storage facilities that transport or store natural gas prior to entering the pipeline to a local distribution company or to a final end user, and that are major source of hazardous air pollutant (HAP) emissions. Natural gas transmission means the pipelines used for long distance transport and storage vessel is a tank or other vessel designed to contain an accumulation a crude oil, condensate, intermediate hydrocarbon, liquids, produced water or other liquid and is constructed of wood, concrete, steel or plastic structural support.

This subpart does not apply to the Capote Compressor Station because it is a natural gas production facility and not a natural gas transmission or storage facility.

40 CFR Part 63, Subpart ZZZZ: National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. This rule establishes national emission limitations and operating limitations for HAPs emitted from stationary reciprocating internal combustion engines (RICE). A stationary RICE is any internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. This rule applies to owners or operators of stationary RICE which are located at a major source of HAP, except if the RICE has a site-rating of 500 brake horse power (bhp) or less. While all stationary RICE with a site-rating of more than 500 bhp located at major sources are subject to the final rule, there are distinct requirements for regulated stationary RICE depending on their design, use, and fuel. The standards in the final rule have specific requirements for all new or reconstructed RICE and for existing spark ignition 4 stroke rich burn (4SRB) stationary RICE. With the exception of the existing spark ignition 4SRB stationary RICE, other types of existing stationary RICE (i.e., spark ignition 2 stroke lean burn (2SLB), spark ignition 4 stroke lean burn (4SLB), compression ignition (CI), stationary RICE that combust landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, emergency, and limited use units) located at a major source of HAP emissions are not subject to any specific requirement under the final rule.

A stationary RICE is existing if construction or reconstruction of the unit commenced before December 19, 2002. A stationary RICE is new if construction of the unit commenced on or after December 19, 2002. A stationary RICE is reconstructed if the definition of reconstruction in §63.2 is met and reconstruction commenced on or after December 19, 2002.

While the Capote Compressor Station is a major HAP source, this subpart does not apply to the Red Cedar Capote Compressor Station because all the engines are lean-burn engines constructed before December 19, 2002.

Prevention of Significant Deterioration (PSD): A review of Red Cedar's application for the Capote Compressor Station shows that the potential to emit of any pollutant regulated under the Clean Air Act [not including pollutants listed under section 112] is less than the 250 tons per year major source threshold. Therefore, this facility is not required to have or obtain a PSD permit.

Compliance Assurance Monitoring (CAM) Rule: The CAM rule (40 CFR Part 64) applies to each Pollutant Specific Emission Unit (PSEU) at a part 71 major stationary source that meets a three-part test. The PSEU must be 1) subject to an emission limitation or standard, 2) use a control device to achieve compliance, and 3) have a pre-control emissions that exceed the major source threshold. Since no PSEU's at the Capote Compressor Station meet any of these three CAM applicability criteria, the Capote Compressor Station is not subject to CAM requirements.

4. Conclusion

Since the Capote Compressor Station is located in Indian country, the State of Colorado's implementation plan does not apply to this source. In addition, no tribal implementation plan (TIP) has been submitted and approved for the Southern Ute Tribe, and EPA has not promulgated a federal implementation plan (FIP) for the area of jurisdiction governing the Southern Ute Indian Reservation. Therefore, the Capote Compressor Station is not subject to any implementation plan.

Based on the information provided in Red Cedar's applications for the Capote Compressor Station, EPA has no evidence that this source is subject to any existing applicable federal CAA programs except the Federal Operating Permit requirements at 40 CFR part 71.

EPA recognizes that, in some cases, sources of air pollution located in Indian country are subject to fewer requirements than similar sources located on land under the jurisdiction of a state or local air pollution control agency. To address this regulatory gap, EPA is in the process of developing national regulatory programs for preconstruction review of major sources in nonattainment areas and of minor sources in both attainment and nonattainment areas. These programs will establish, where appropriate, control requirements for sources that would be incorporated into part 71 permits. To establish additional applicable, federally-enforceable emission limits, EPA Regional Offices will, as necessary and appropriate, promulgate Federal Implementation Plans (FIPs) that will establish federal requirements for sources in specific areas. EPA will establish priorities for its direct federal implementation activities by addressing as its highest priority the most serious threats to public health and the environment in Indian country that are not otherwise being adequately addressed. Further, EPA encourages and will work closely with all tribes wishing to develop Tribal Implementation Plans (TIPs) for approval under the Tribal Authority Rule. EPA intends that its federal regulations created through a FIP will apply only in those situations in which a tribe does not have an approved TIP.

5. General EPA Authority To Issue Part 71 Permits

Title V of the Clean Air Act requires that EPA promulgate, administer, and enforce a federal operating permits program when a state does not submit an approvable program within the time frame set by title V or does not adequately administer and enforce its EPA-approved program. On July 1, 1996 (61 FR 34202), EPA adopted regulations codified at 40 CFR 71 setting forth the procedures and terms under which the Agency would administer a Federal operating permits program. These regulations were updated on February 19, 1999 (64 FR 8247) to incorporate EPA's approach for issuing federal operating permits to covered stationary sources in Indian country.

As described in 40 CFR § 71.4(a), EPA will implement a part 71 program in areas where a state, local, or tribal agency has not developed an approved part 70 program. Unlike states, Indian tribes are not required to develop operating permits programs, though EPA encourages tribes to do so. See, e.g., Indian Tribes: Air Quality Planning and Management (63 FR 7253, February 12, 1998) (also known as the "Tribal Authority Rule"). Therefore, within Indian country, EPA believes it is generally appropriate that EPA administer and enforce a part 71 federal operating permits program for stationary sources until tribes receive approval to administer their own operating permits programs.

6. Use Of All Credible Evidence

Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered by the source and EPA in such determinations.

7. Public Participation

a. Public Notice.

Public notice was published in the Durango Herald, on November 10, 2006, giving opportunity for public comment on the draft permit and the opportunity to request a public hearing.

b. Opportunity for Comment

Members of the public were given an opportunity to review a copy of the draft permit prepared by EPA, the application, this statement of basis for the draft permit, and all supporting materials for the draft permit. Copies of these documents were available at:

La Plata County Clerk's Office
1060 East 2nd Avenue
Durango, Colorado 81302

and

Southern Ute Indian Tribe
Environmental Programs Office
116 Mouache Drive
Ignacio, Colorado 81137

and

US EPA Region 8
Air and Radiation Program Office
999 18th Street, Suite 300 (8P-AR)
Denver, Colorado 80202

c. Opportunity to Request a Hearing

A person may submit a written request for a public hearing to the Part 71 Permit Contact, at the address listed in section 6.a above, by stating the nature of the issues to be raised at the public hearing. Based on the number of hearing requests received, EPA will hold a public hearing whenever it finds there is a significant degree of public interest in a draft operating permit. EPA will provide public notice of the public hearing. If a public hearing is held, any person may submit oral or written statements and data concerning the draft permit. No hearings were requested on this action.

d. Appeal of permits

Within 30 days after the issuance of a final permit decision, any person who filed comments on the draft permit or participated in the public hearing may petition to the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or participate in the public hearing may petition for administrative review, only if the changes from the draft to the final permit decision or other new grounds were not reasonably foreseeable during the public comment period. The 30 day period to appeal a permit begins with EPA's service of the notice of the final permit decision.

The petition to appeal a permit must include a statement of the reasons supporting the review, a demonstration that any issues were raised during the public comment period, a demonstration that it was impracticable to raise the objections within the public comment period, or that the grounds for such objections arose after such a period. When appropriate, the petition may include a showing that the condition in question is based on a finding of fact or conclusion of law which is clearly erroneous; or, an exercise of discretion, or an important policy consideration which the Environmental Appeals Board should review.

The Environmental Appeals Board will issue an order either granting or denying the petition for review, within a reasonable time following the filing of the petition. Public notice of the grant of review will establish a briefing schedule for the appeal and state that any interested person may file an amicus brief. Notice of denial of review will be sent only to the permit applicant and to the person requesting the review. To the extent review is denied, the conditions of the final permit decision become final agency action.

A motion to reconsider a final order shall be filed within 10 days after the service of the final order. Every motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration shall be directed to the Administrator rather than the Environmental Appeals Board. A motion for reconsideration shall not stay the effective date of the final order unless it is specifically ordered by the Board.

e. Petition to reopen a permit for cause

Any interested person may petition EPA to reopen a permit for cause, and EPA may commence a permit reopening on its own initiative. EPA will only revise, revoke and reissue, or terminate a permit for the reasons specified in 40 CFR 71.7(f) or 71.6(a)(6)(i). All requests must be in writing and must contain facts or reasons supporting the request. If EPA decides the request is not justified, it will send the requester a brief written response giving a reason for the decision. Denial of these requests is not subject

to public notice, comment, or hearings. Denials can be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts.

f. Notice to affected states/tribes

As described in 40 CFR 71.11(d)(3)(i), public notice will be given by mailing a copy of the notice to the air pollution control agencies of affected states, tribal and local air pollution control agencies which have jurisdiction over the area in which the source is located, the chief executives of the city and county where the source is located, any comprehensive regional land use planning agency and any state or federal land manager whose lands may be affected by emissions from the source. The following entities were notified:

State of Colorado, Department of Public Health and Environment
State of New Mexico, Environment Department
Southern Ute Indian Tribe, Environmental Programs Office
Ute Mountain Ute Tribe, Environmental Programs
Navajo Tribe, Navajo Nation EPA
Jicarilla Tribe, Environmental Protection Office
La Plata County, County Clerk
Town of Ignacio, Mayor
National Park Service, Air, Denver, CO
U.S. Department of Agriculture, Forest Service, Rocky Mountain Region
San Juan Citizen Alliance
Carl Weston